



STATE OF NEW HAMPSHIRE

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

DOVER EDUCATION ASSOCIATION	:	
	:	
Complainant	:	
	:	
and	:	
	:	CASE NO. M-0540
SCHOOL BOARD MEMBERS & their agents,	:	
BERNARD F. RYDER, in his capacity as	:	
Superintendent,	:	DECISION NO. 81-20
DOVER SCHOOL DISTRICT	:	
	:	
Respondents	:	

APPEARANCES

Representing the Dover Education Association:

Cathy Hall, UniServ Director, NEA/NH
William Hunt, DEA
Carol Dingley, DEA
Martha A. Bstandig, DEA

Representing the Superintendent & School Board Members:

Bernard F. Ryder, Superintendent

Representing the Exclusive Representation, Dover Teachers' Union:

Ted Wells, N. H. Representative, NHFT/AFT-AFL-CIO
Beverly M. Conway, DTU
Thomas J. Conway, DTU
John Grimes, DTU

BACKGROUND

This matter came on for a hearing before PELRB on the petition of the Dover Education Association ("DEA") alleging an unfair labor practice on the part of the Dover School Board ("DSB"), for its denial of access to school mail boxes by the DEA. The Dover Teachers' Union ("DTU") moved to intervene and participate without objection in the hearing held on May 28, 1981.

FINDINGS OF FACT

-- Until October 18, 1979, the DEA was the exclusive bargaining representative of the teachers in Dover. During the term of its status as such, the DEA allowed unlimited access to the school mailboxes by the DTU. Apparently no

objection or question concerning this was raised by any party.

-- When the DTU became the new representative later in 1979, it assumed administration of the agreement negotiated by DEA, and subsequently negotiated the current agreement. Additionally, the DTU has taken the position that it has exclusive access to school mailboxes vis-a-vis DEA. The DSB has respected this position and denied access to the DEA.

-- The DEA contract in Article V contains certain "association rights and privileges" including "mail facility and mail boxes", which provides in pertinent part that "the association shall have the right to use...".

-- The parallel provision in the current (DTU) contract is included in an article entitled "exclusive union rights and responsibilities". Otherwise, the language is substantially similar.

DISCUSSION

It is important to know at the outset those issues which are not before PELRB. First, the DEA specifically does not advance any constitutional argument in support of its position. This is appropriately so, as PELRB has no jurisdiction to entertain such claims, PELRB powers being strictly limited by statute.

Second, it is not disputed that during the tenure of DEA, it expressed no objection to the use of the mail facilities by DTU.

Third, it is admitted by DEA that alternate means of communication with its members and other teachers are available to it. These include ordinary mail to the home or the school, and other normal means. The only limitation before us is the prohibition of use of the school mail boxes without benefited postage.

It is the opinion of this Board that the contract language cited above in each instance is not particularly helpful to the resolution of the dispute. Whether the "right" to use school mailboxes is an exclusive one or not is irrelevant; indeed, the Superintendent testified that the boxes were not open to any member of the public. The issue is whether the DEA has the right to use the mailboxes.

We are convinced that, had DEA objected to the use of the boxes by DTU earlier, the DTU would have been refused access by the school. When use by a rival organization was made without objection, the school had no cause to intervene. Upon the issue being raised, the interpretation placed on the contract of the school is a reasonable one, consistent with labor peace and efficient administration of the school.

We pause to note that the continued validity of the position of the school during the open period for decertification of the representative is not before us; we save resolution of that difficult issue for another day.

DECISION AND ORDER

No evidence of an intent to commit or the commission of any of the prohibited practices for a public employer having been demonstrated, it therefore follows that the petition must be, and it is hereby DISMISSED.

Russell F. Hilliard

RUSSELL F. HILLIARD, Board Member
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Signed this 4th day of August, 1981.

By unanimous vote, Chairman Haseltine president, members Hilliard and Osman present and voting. Also present, Executive Director LeBrun.